

TERMS AND CONDITIONS FOR USE OF PART D FORMULARY AND PHARMACY NETWORK INFORMATION

The Part D Formulary and Pharmacy Network Information is a public use file being provided by the Centers for Medicare & Medicaid Services (CMS), and any use of such information by Requesting Party must be in a manner consistent with these Terms and Conditions. By requesting and using the Formulary and Pharmacy Network Information, Requesting Party agrees that it will comply with these Terms and Conditions.

Definitions

“Requesting Party” means the individual or entity submitting a request for access to the Formulary and Pharmacy Network Information.

“Part D Sponsor” shall have the meaning given such term at 42 C.F.R. ' 423.4.

“Part D Plan” shall have the meaning given such term at 42 C.F.R. ' 423.4.

“Part D drug” shall have the meaning given such term at 42 C.F.R. ' 423.100.

“Subcontractor-PBM” means a pharmacy benefit manager (PBM) with which a Part D Sponsor has contracted to administer its Part D Plan(s), and which owns the copyright in the Part D Sponsor’s Formulary and Pharmacy Network Information.

“Part D Sponsor’s Formulary and Pharmacy Network Information” means, as provided by CMS to Requesting Party, the list of Part D drugs covered by a Part D Plan offered by a Part D Sponsor; the cost-sharing associated with each Part D drug covered under the Part D Plan; whether a Part D drug covered under the Part D Plan is subject to prior authorization, step therapy, quantity limits, or similar utilization review procedures; and the list of pharmacies that have contracted with a Part D Sponsor to provide Part D drugs and related services to enrollees in the Part D Sponsor’s Part D plan(s).

“Formulary and Pharmacy Network Information”: The Part D Sponsor’s Formulary and Pharmacy Network Information for all Part D Plans provided by CMS to Requesting Party.

Terms and Conditions

1. Requesting Party acknowledges that the Formulary and Pharmacy Network Information is provided to CMS by Part D Sponsors as a condition of their participation in the Medicare Part D Program.

2. Requesting Party agrees that the Formulary and Pharmacy Network Information will be used solely by the Requesting Party, its employees, agents, officers, clients and end users. Nothing in this paragraph shall preclude the Requesting Party's employees, agents, officers, clients and end users from providing information to a Medicare beneficiary or his or her authorized representative for purposes related to the provision of medical care to the beneficiary or the selection of and enrollment in a Part D Plan. Requesting Party agrees that it shall not disclose, sell, assign, lease or otherwise provide to third parties the Formulary and Pharmacy Network Information, and that it shall notify its employees, agents, officers, clients and end users that they are prohibited from transferring the Formulary and Pharmacy Network Information to any third party, other than as specified in this paragraph.
3. Requesting Party agrees that its use of the Formulary and Pharmacy Network Information will comply with all applicable laws, including the Copyright Act of 1976, as amended. Requesting Party acknowledges that a Part D Sponsor's Formulary and Pharmacy Network Information are original works of authorship owned by the Part D Sponsor (or its assignee) or its Subcontractor-PBM and subject to copyright protection, and may not be used, displayed, copied or disclosed except as authorized by the Part D Sponsor (or its assignee) or its Subcontractor-PBM (or its assignee). Unless Requesting Party and a Part D Sponsor (or its assignee) or Subcontractor-PBM (or its assignee) agree otherwise, as between Requesting Party and a Part D Sponsor (or its assignee) or Subcontractor-PBM (or its assignee), the Part D Sponsor (or its assignee) or the Subcontractor-PBM (or its assignee) is and will remain the sole and exclusive owner of all right, title, and interest in and to the Part D Sponsor's Formulary and Pharmacy Network Information. Any questions pertaining to a Part D Sponsor's or Subcontractor-PBM's copyright in the Part D Sponsor's Formulary and Pharmacy Network Information should be addressed to the Part D Sponsor or the Subcontractor-PBM.
4. Requesting Party agrees that it shall not use the Formulary and Pharmacy Network Information in a manner that is inaccurate or misleading.
5. CMS will update the Formulary and Pharmacy Network Information on a monthly basis. The Requesting Party agrees that it promptly will discontinue use of and destroy any Formulary and Pharmacy Network Information previously received from CMS upon the initial availability of each monthly update to the Formulary and Pharmacy Network Information. Notwithstanding the foregoing, Requesting Party may archive a single copy of the Formulary and Pharmacy Network Information for internal record keeping purposes only.
6. Requesting Party agrees that any Formulary and Pharmacy Network Information made available to end users will be accompanied by a notice stating that the information provided is accurate as of xx/xx/xxxx (the date of the last monthly update to the Formulary and Pharmacy Network Information), and that the information may be updated monthly.

7. Requesting Party acknowledges that CMS reserves the right to terminate Requesting Party's access to monthly updates to the Formulary and Pharmacy Network Information in the event Requesting Party violates these Terms and Conditions. In the event CMS terminates Requesting Party's access to the monthly updates to the Formulary and Pharmacy Network Information, Requesting Party agrees that it promptly will discontinue use of and destroy any Formulary and Pharmacy Network Information it previously received from CMS, except that Requesting Party may archive a single copy of the Formulary and Pharmacy Network Information for internal record keeping purposes only.
8. Requesting Party agrees to fully cooperate with any investigation by CMS or a Part D Sponsor or Subcontractor-PBM regarding the Requesting Party's use of the Formulary and Pharmacy Network Information, including but not limited to describing the purposes for which such information was used or will be used by Requesting Party, whether such purposes were or will be funded in whole or in part by one or more third parties, and identifying subcontractors, clients, end users and any other third parties to whom Requesting Party disclosed the information.
9. Requesting Party acknowledges that the Formulary and Pharmacy Network Information is provided "as is," without warranties of any kind, either express or implied, including, but not limited to, warranties of title, merchantability, fitness for a particular purpose or use, or "currentness." Requesting Party acknowledges that it is not an agent of or otherwise acting on behalf of CMS with respect to its use of the Formulary and Pharmacy Network Information. Any use of the Formulary and Pharmacy Network Information by Requesting Party, its employees, agents, officers, clients, and end users is at their own risk, and neither CMS nor its employees or agents may be held liable for any direct, indirect, special, incidental, or consequential damages arising out of their use of the Formulary and Pharmacy Network Information, including, but not limited to, any claims attributable to any errors, omissions, or other inaccuracies in the Formulary and Pharmacy Network Information.
10. Requesting Party acknowledges that CMS reserves the right to amend or modify these Terms and Conditions, and that Requesting Party's future use of the Formulary and Pharmacy Network Information may be subject to revised or additional terms and conditions.